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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,913	10/14/2003	Richard E. Rowe	100028-41038	3557

27805 7590 07/13/2005

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EXAMINER

RUDDOCK, ULA CORINNA

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/684,913

Applicant(s)

ROWE ET AL.

Examiner

Ula C. Ruddock

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/12/04, 7/12/04, 11/8/04, 4/11/05
- 4) ☐ Interview Summary (PTO-413)  
\* Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-22 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crabtree et al. (US 5,820,937) in view of Chen et al. (US 6,228,463). Crabtree et al. (US 5,820,937) disclose a process for making high abrasion overlays used in wall panels and floor surfacings (col 1, ln 15-16). The material comprises an overlay sheet formed from alpha cellulose fibers (col 4, ln 36-42). The coated web is dried by any conventional means to provide a fibrous cellulosic sheet having a layer of abrasion-resistant grit particles on the surface of the sheet (col 3, ln 9-12). The grit employed can be alumina mineral particles (col 3, ln 66-67) and is typically in a binder material such as acrylic latex and melamine-formaldehyde (col 4, ln 15-25). Crabtree et al. disclose the claimed invention except for the teaching that the product comprises a resilient resin or felt base layer.

Chen et al. (US 6,228,463) disclose a surface covering material used in flooring (col 1, ln 31-33). The covering comprises a backing layer, a foam layer, and a design layer. A wear layer and a top coat layer are located on top of the design layer (col 2, ln 38-49). A portion of the design in the design layer is printed (col 3, ln 16-17). The wear-resistant particles comprise fused alumina or quartz (col 4, ln 6-20). A strengthening layer, which can be a vinyl resin, is disposed

between two foam layers (col 9, ln 30-36). The backing layer can be any conventional backing layer such as felted or matted fibrous sheets of cellulosic origin and the foamable layer can be a polyvinyl chloride plastisol material (col 12, ln 22-40). It would have been obvious to one having ordinary skill in the art to have used Chen's felted cellulosic fibrous sheets or Chen's PVC plastisol foamable material as the base layer in the overlay material of Crabtree et al., motivated by the desire to create a wear resistant laminate having increased durability and strength.

3. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crabtree et al. (US 5,820,937) and Chen et al. (US 6,228,463), as applied to claim 1 above, and further in view of Dempsey et al. (US 2004/0219339). Crabtree et al. and Chen et al. disclose the claimed invention except for the teaching that the product comprises limestone along with the vinyl resin.

Dempsey et al. (US 2004/0219399) disclose a resilient floor tile comprising a vinyl composition that includes limestone and polyvinyl chloride homopolymer [0024]. It would have been obvious to one having ordinary skill in the art to have used the limestone disclosed by Dempsey et al. with the vinyl resin composition of Crabtree et al. and Chen et al., motivated by the desire to create an overlay sheet having increased strength and wear resistance.

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C. Ruddock whose telephone number is 571-272-1481. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

UCR *Ula*

*Ula Ruddock*  
**Ula C. Ruddock**  
Primary Examiner  
Tech Center 1700